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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PLANNED PARENTHOOD FEDERATION OF) Case No. 3:16-CV-00236 (WHO)

AMERICA, INC., PLANNED PARENTHOOD:)

SHASTA-DIABLO, INC. d/b/a PLANNED) Judge William H. Orrick, III

PARENTHOOD NORTHERN CALIFORNIA;)

PLANNED PARENTHOOD MAR MONTE,) Case Filed on January 14, 2016

INC.; PLANNED PARENTHOOD OF THE)

PACIFIC SOUTHWEST; PLANNED)

PARENTHOOD LOS ANGELES; PLANNED) **DEFENDANT TROY NEWMAN'S**
NOTICE OF APPEAL

PARENTHOOD/ORANGE AND SAN)

BERNARDINO COUNTIES, INC.; PLANNED)

PARENTHOOD OF CALIFORNIA CENTRAL)

COAST f/k/a PLANNED PARENTHOOD OF)

SANTA BARBARA, VENTURA AND SAN)

LUIS OBISPO COUNTIES, INC; PLANNED)

PARENTHOOD PASADENA AND SAN)

GABRIEL VALLEY, INC.; PLANNED)

PARENTHOOD OF THE ROCKY)

MOUNTAINS; PLANNED PARENTHOOD)

GULF COAST, INC.; and PLANNED)

PARENTHOOD CENTER FOR CHOICE,)

Plaintiffs,)

vs.)

THE CENTER FOR MEDICAL PROGRESS;)

BIOMAX PROCUREMENT SERVICES, LLC;)

DAVID DALEIDEN; TROY NEWMAN; ALBIN)

RHOMBERG; SANDRA SUSAN MERRITT;)

and GERARDO ADRIAN LOPEZ)

Defendants.)

1 Defendant Troy Newman hereby gives Notice that he is appealing to the United States Court
2 of Appeals for the Ninth Circuit from (1) the Order Resolving Unfair Competition Claim and
3 Entering Judgment, entered in the above-referenced action on April 29, 2020, at docket entry 1073,
4 (2) the Judgment, entered in the above-referenced action on April 29, 2020, at docket entry 1074,
5 and (3) from the jury verdict and all preceding district court orders and rulings as they merge with
6 docket entries 1073 and 1074. *See Hall v. City of Los Angeles*, 697 F.3d 1059, 1070-71 (9th Cir.
7 2012) (explaining that once judgment is entered and a party appeals, all earlier, non-final orders and
8 rulings of the district court are reviewable because they merge with the judgment); *accord Litchfield*
9 *v. Spielberg*, 736 F.2d 1352, 1355 (9th Cir. 1984).

11 Defendant Troy Newman is filing this Notice of Appeal within thirty days of the entry of the
12 above-referenced Order and Judgments, at docket entries 1073 and 1074, but during the pendency of
13 his timely-filed Post-Judgment Motions (respectively, motions for judgment as a matter of law, to
14 alter or amend the judgment, and for a new trial pursuant to Fed. R. Civ. P. 50(b) and 59) which were
15 filed in the above-referenced action on May 26, 2020, at docket entry 1080. Although those timely-
16 filed Post-Judgment Motions toll the time to file a Notice of Appeal, Fed. R. App. P. 4(a)(4)(A),
17 Defendant Troy Newman may still file this Notice of Appeal during their pendency pursuant to Fed.
18 R. App. P. 4(a)(4)(B). The effectiveness of this Notice of Appeal is suspended until the district court
19 disposes of the last of those Post-Judgment Motions with Defendant Troy Newman being allowed to
20 amend this Notice of Appeal within thirty days thereafter and without having to pay an additional
21 filing fee. Fed. R. App. P. 4(a)(4)(B); *see also, e.g., Rowell v. Dzurenda*, 2019 U.S. App. LEXIS
22 37679, at *1 (9th Cir. Dec. 18, 2019) (explaining that a notice of appeal filed while a timely post-
23 judgment motion is pending does not deprive the district court of jurisdiction, and the notice of appeal
24 becomes effective after the resolution of the motion); *Leader Nat'l Ins. Co. v. Industrial Indem. Ins.*
25 *Co.*, 19 F.3d 444, 445 (9th Cir. 1994) (explaining that a premature notice of appeal is held in abeyance
26
27
28

1 until the resolution of post-judgment motions).

2 A Representation Statement is attached to this Notice of Appeal as required by Circuit Rule
3 3-2.

4 Respectfully submitted on May 28, 2020,

5 /s/ Edward L. White III

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ATTESTATION PURSUANT TO CIVIL L.R. 5.1(i)(3)

As the filer of this document, I attest that concurrence in the filing was obtained from the other signatories.

/s/ Edward L. White III
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CERTIFICATE OF SERVICE

On May 28, 2020, the undersigned certifies that he filed with the Northern District of California's CM/ECF system the foregoing Defendant Troy Newman's Notice of Appeal and the attached Defendant Troy Newman's Representation Statement. The CM/ECF system will provide electronic notice of the filing to the attorneys of record who are ECF users. I declare under the penalty of perjury that the foregoing statement of filing and service is true and correct to the best of my knowledge.

/s/ Edward L. White III
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